

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

COLEMAN GARRETT, JR.

PLAINTIFF

VS.

CIVIL ACTION NO. 3:11cv713-DPJ-FKB

MICHAEL J. ASTRUE, COMMISSIONER
OF SOCIAL SECURITY

DEFENDANT

ORDER

This cause is before the Court on the Report and Recommendation [31] of the United States Magistrate Judge, after referral of hearing by this Court. Magistrate Judge Ball considered the parties' submissions and concluded that Defendant's Motion to Affirm the Decision of the Commissioner [29] should be granted and Plaintiff's dispositive motions [25, 27] should be denied. Plaintiff, who is proceeding *pro se*, filed timely Objections [32] to the Report and Recommendation.¹ After reviewing the findings in the Report and Recommendation [31], together with Plaintiff's objections [32], and being otherwise duly advised in the premises, the Court finds that, based on the applicable standard, the Report and Recommendation should be adopted as the opinion of this Court.

In his Objections, aside from rehashing general arguments Judge Ball previously considered and rejected, Plaintiff raises two objections to the Report and Recommendation. First, Plaintiff asserts his belief that the record supplied by Defendant is "prejudicial, bias [sic], subjective . . . [,] unsubstantiated, . . . [not] factual, and lacks credibility." Pl.'s Objections [32] at 1. This objection is vague and conclusory and is overruled as frivolous. Second, Plaintiff

¹Plaintiff's objections have been docketed as both a motion [32] for an order to object to the Report and Recommendation and as a response [33] to Defendant's motion to affirm. The documents associated with these docket entries, however, are identical.

requests that the Court “maybe explore the possibility of additional medical evidence and evaluation more credible by other doctors, specialist [sic], and examiners ‘contrary to’ other than those supplied by the defendant.” *Id.* This objection is also overruled. Plaintiff had the opportunity to submit medical evidence substantiating his claim to the Administrative Law Judge and in support of his dispositive motions [25, 27]. The absence of this evidence had a bearing on Judge Ball’s decision to affirm the Commissioner’s decision. Report & Recommendation [31] at 5 (“[T]he record is notable for the absence of objective medical evidence supporting Plaintiff’s allegation.”). And based on Plaintiff’s statements, it is unlikely that any such medical evidence even exists. Finally, to the extent this objection can be construed as a motion for leave to supplement the record or submit additional evidence, the case has been pending for over a year and any such motion is denied as untimely.

The Court, having fully reviewed the Report and Recommendation of the United States Magistrate Judge entered in this cause, and being duly advised in the premises, finds that said Report and Recommendation should be adopted as the opinion of this Court.

IT IS, THEREFORE, ORDERED that Plaintiff’s objections to the Report and Recommendation are hereby overruled and any concomitant motion is also denied.

IT IS FURTHER ORDERED that the Report and Recommendation of United States Magistrate Judge F. Keith Ball be, and the same is hereby, adopted as the finding of this Court, Defendant’s motion is granted, Plaintiff’s dispositive motions are denied, the decision of the Commissioner is affirmed, and this action is dismissed with prejudice.

A separate judgment will be entered herein in accordance with the Order as required by Rule 58 of the Federal Rules of Civil Procedure.

SO ORDERED AND ADJUDGED this the 14th day of February, 2013.

s/ Daniel P. Jordan III
UNITED STATES DISTRICT JUDGE